

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
FEB - 1 2012

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

JUDICIAL WATCH, INC.,
425 Third Street, S.W., Suite 800
Washington, DC 20024,

Plaintiff,

v.

U.S. DEPARTMENT OF ENERGY,
1000 Independence Ave., S.W.
Washington, DC 20585,

Defendant.

Civil Action No.

Case: 1:12-cv-00171

Assigned To : Boasberg, James E.

Assign. Date : 2/1/2012

Description: FOIA/Privacy Act

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Energy to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA").

As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 425 Third Street, S.W., Suite 800, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest

mission, Plaintiff regularly requests access to the public records of federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant U.S. Department of Energy (“DoE”) is an agency of the United States Government headquartered at 1000 Independence Ave., S.W., Washington, DC 20585. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On November 15, 2011, Plaintiff sent a FOIA request to Defendant, seeking access to the following:

Any and all records of communications between the Department of Energy and the following entities concerning and/or relating to the Department of Energy’s \$529 million dollar loan to Fisker Automotive¹:

- a. Fisker Automotive;
- b. Valmet Automotive;
- c. Kleiner Perkins Caufield & Byers;
- d. Generation Investment Management;
- e. The Alliance for Climate Protection;
- f. The United Auto Workers (UAW); The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); and or any other labor unions;
- g. The government of Finland;
- h. The White House;
- i. The Executive Office of the President;
- j. The U.S. Congress

6. The time period covered by this request was October 1, 2009 through November 15, 2011.

7. Defendant acknowledged receipt of Plaintiff’s FOIA request in two letters dated November 25, 2011. In those letters, Defendant stated that a search for responsive documents

¹ ABC News: Car Company Gets U.S. Loan, Builds Cars in Finland. October 20, 2011
<http://abcnews.go.com/Blotter/car-company-us-loan-builds-cars-finland/story?id=14770875>

would be conducted, and assigned control number HQ-2012-00319-F to Plaintiff's request.

However, Defendant's acknowledgment letters did not state when Plaintiff could expect to receive a substantive response to its request.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), the DoE was required to respond to Plaintiff's FOIA request within twenty (20) working days of November 25, or by December 23, 2011.

9. As of the date of this Complaint, Defendant has failed to produce any records responsive to Plaintiff's request or demonstrate that responsive records are exempt from production. Nor have they indicated whether or when they will produce any responsive documents.

10. Because Defendant failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its FOIA request, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.

12. Defendant is unlawfully withholding records requested by Plaintiff pursuant to 5 U.S.C. § 552.

13. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

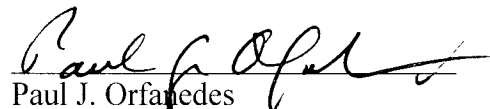
WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all responsive records to Plaintiff's FOIA request and demonstrate

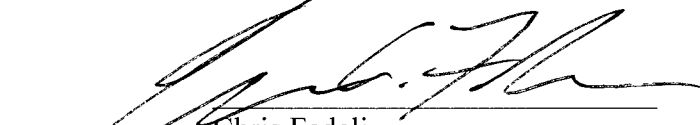
that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: February 1, 2012

Respectfully submitted,

JUDICIAL WATCH, INC.


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